

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE TERRORIST ATTACKS ON :
SEPTEMBER 11, 2001 :

03 MDL 1570 (GBD) (SN)

This Document Relates To:

Jessica DeRubbio, et al. v. Islamic Republic of Iran, 1:18-cv-05306 (GBD) (SN)
Roberta Agyeman, et al. v. Islamic Republic of Iran, 1:18-cv-05320 (GBD) (SN)
Horace Morris, et al. v. Islamic Republic of Iran, 1:18-cv-05321 (GBD) (SN)
Laurence Schlissel, et al. v. Islamic Republic of Iran, 1:18-cv-05331 (GBD) (SN)
Bakahityar Kamardinova, et al. v. Islamic Republic of Iran, 1:18-cv-05339 (GBD) (SN)
Audrey Ades, et al. v. Islamic Republic of Iran, 1:18-cv-07306 (GBD) (SN)
Lloyd A. Abel Sr., et al. v. Islamic Republic of Iran, 1:18-cv-11837 (GBD) (SN)
Chang Don Kim, et al. v. Islamic Republic of Iran, 1:18-cv-11870 (GBD) (SN)
Alexander Jimenez, et al. v. Islamic Republic of Iran, 1:18-cv-11875 (GBD) (SN)
Maureen Moody-Theinert, et al. v. Islamic Republic of Iran, 1:18-cv-11876 (GBD) (SN)
Cheryl Rivelli, et al. v. Islamic Republic of Iran, 1:18-cv-11878 (GBD) (SN)
Gordon Aamoth Sr., et al. v. Islamic Republic of Iran, 1:18-cv-12276 (GBD) (SN)
Marinella Hemenway, et al. v. Islamic Republic of Iran, 1:18-cv-12277 (GBD) (SN)
Matthew Rowenhorst, et al. v. Islamic Republic of Iran, 1:18-cv-12387 (GBD) (SN)
The Estate of John P. O'Neill, Sr., et al. v. Islamic Republic of Iran, et al., 1:04-cv-1076 (GBD) (SN)

**SUPPLEMENT TO PLAINTIFFS' FED.R.CIV.P. 72 OBJECTIONS TO THE
MAGISTRATE JUDGE'S SEPTEMBER 30, 2020 OPINION & ORDER (ECF No. 6481),
FILED ON BEHALF OF PLAINTIFFS REPRESENTED BY ANDERSON KILL**

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*For those Plaintiffs Represented by
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Those certain plaintiffs represented by Anderson Kill (“AK Plaintiffs”) submit this brief as a supplement to the objections being filed on this date by Responding Plaintiffs, composed primarily of the leadership of the Plaintiffs’ Executive Committee for Personal Injury and Wrongful Death Claims (“Objections”). In the Objections, Responding Plaintiffs object pursuant to Fed. R. Civ. P. 72 to the September 30, 2020 and September 30, 2019 decisions by the Honorable Sarah Netburn, United States Magistrate Judge, ordering the establishment of a Common Benefit Fund solely for work done on the Iran liability components of this MDL. ECF Nos. 5180 and 6481.

AK Plaintiffs join in those Objections, which are incorporated here as if set forth in full. This supplement is necessary to highlight that they stand in shoes that are significantly different from the vast majority of Responding Plaintiffs. Unlike those Responding Plaintiffs, AK Plaintiffs have received no distributions thus far from the fund created by the United States Victims of State-Sponsored Terrorism (“USVSSST”) Act. *See* 34 U.S.C. § 20144. There have previously been two rounds of distributions, and Anderson Kill and its clients did not receive distributions in either of them.

AK Plaintiffs further submit that the complexity of assessing or allocating each plaintiff’s contribution is part of why it would be premature to create a Common Benefit Fund at this interim phase of the litigation, as Responding Plaintiffs submit in their Objections. It would be a substantial challenge for this Court to calculate an equitable assessment or allocation at this point that takes all such variables into account. Further, doing so would divert the Court’s time and resources from the pressing and substantive issues of the litigation. The more equitable and efficient approach is to defer such cost-specific issues to the end of the litigation, where they can be addressed holistically.

For this reason, and all reasons set forth in the Responding Plaintiffs' Objections, AK Plaintiffs respectfully request that this Court set aside the 09/30/2019 and 09/30/2020 decisions and deny the request of one set of counsel to establish a Common Benefit Fund with regard to only one defendant at this interim stage.

November 4, 2020

Respectfully submitted,

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